

FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

<p>SEAN REYNOLDS, <i>Petitioner-Appellee,</i></p> <p style="text-align:center">v.</p> <p>STEVEN CAMBRA, JR., Warden; ATTORNEY GENERAL OF THE STATE OF CALIFORNIA, <i>Respondents-Appellants.</i></p>	}
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No. 01-55643
D.C. No.
CV-97-07048-CBM
OPINION

Appeal from the United States District Court
for the Central District of California
Consuelo B. Marshall, District Judge, Presiding

Submitted April 5, 2002*
Pasadena, California

Filed May 14, 2002

Before: Ferdinand F. Fernandez, Johnnie B. Rawlinson,
Circuit Judges and Edward C. Reed, Jr.,** District Judge.

Opinion by Judge Rawlinson

*The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

**The Honorable Edward C. Reed, Jr., Senior United States District Judge for the District of Nevada, sitting by designation.

COUNSEL

Margaret E. Maxwell, Deputy Attorney General, Los Angeles, California, for appellant Steven Cambra, Jr.

Patricia G. Bell, West Hills, California, for appellee Sean Reynolds.

OPINION

RAWLINSON, Circuit Judge:

Appellant Steven Cambra appeals the district court's partial grant of Sean Reynolds' habeas petition filed pursuant to 28 U.S.C. § 2254.

Without the benefit of our recent decision in *United States v. Sanchez-Cervantes*, 282 F.3d 664 (9th Cir. 2002), the district court ruled, in a published opinion, that *Apprendi v. New Jersey*, 530 U.S. 466 (2000), should apply retroactively to Reynolds' petition.

However, after the district court's decision was entered, Reynolds' claim was completely foreclosed by our decision in *Sanchez-Cervantes*, where we held that *Apprendi* does not

apply retroactively. *Sanchez-Cervantes* at 668-71; *see also* *Rees v. Hill*, No. 01-70750, 2002 WL 453222 (9th Cir. Mar. 26, 2002).

In light of our ruling that *Apprendi* does not apply retroactively, we need not address Reynolds' prejudice arguments or any other asserted errors.

Each party will bear its costs on appeal.

REVERSED AND REMANDED.